

**§ 20.1208 Expedited hearings.**

(a) *Procedures.* As soon as practicable after the close of the pre-hearing conference, the ALJ shall hold a hearing, under subpart G of this part, on any issue that remains in dispute.

(b) *Oral and written argument.* (1) Each party may present oral argument at the close of the hearing or present—

(i) Proposed findings of fact and conclusions of law; and

(ii) Post-hearing briefs, under § 20.710.

(2) The ALJ shall issue a schedule, such as will enable him or her to consider the findings and briefs without delaying the issuance of the decision.

(c) *ALJ's decision.* The ALJ may issue his or her decision as an oral decision from the bench. Alternatively, he or she may issue a written decision. He or she shall issue the decision 45 days or less after the temporary suspension.

**§ 20.1209 Appeals of ALJs' decisions.**

Any party may appeal the ALJ's decision as provided in subpart J.

**Subpart M—Supplementary Evidentiary Rules for Suspension and Revocation Hearings****§ 20.1301 Purpose.**

This subpart contains evidentiary rules that apply only in certain circumstances in S&R proceedings. They supplement, not supplant, the evidentiary rules in subpart H.

**§ 20.1303 Authentication and certification of extracts from shipping articles, logbooks, and the like.**

(a) The investigating officer, the Coast Guard representative, any other commissioned officer of the Coast Guard, or any official custodian of extracts from shipping articles, logbooks, or records in the custody of the Coast Guard may authenticate and certify the extracts.

(b) Authentication and certification must include a statement that the person acting has seen the original, compared the copy with it, and found the copy to be a true one. This person shall sign his or her name and identify himself or herself by rank or title and by duty station.

**§ 20.1305 Admissibility and weight of entries from logbooks.**

(a) Any entry in any official logbook of a vessel concerning an offense enumerated in 46 U.S.C. 11501, made in substantial compliance with the procedural requirements of 46 U.S.C. 11502, is admissible in evidence and constitutes *prima facie* evidence of the facts recited.

(b) Any entry in any such logbook made in substantial compliance with the procedural requirements of 46 U.S.C. 11502 may receive added weight from the ALJ.

**§ 20.1307 Use of judgments of conviction.**

(a) A judgment of conviction by a Federal court is conclusive in any S&R proceeding under this part concerning any act or offense described in 46 U.S.C. 7703 or 7704 when the act or offense is the same as in the Federal conviction.

(b) Except as provided in paragraph (c) of this section, no judgment of conviction by a State court is conclusive in any S&R proceeding under this part concerning any act or offense described in 46 U.S.C. 7703 or 7704, even when an act or offense forming the basis of the charge in the proceeding is the same as in the State conviction. But the judgment is admissible in evidence and constitutes substantial evidence adverse to the respondent.

(c) A judgment of conviction by a Federal or State court for a violation is conclusive in the proceeding if an S&R proceeding alleges conviction for—

(1) A violation of a dangerous-drug law;

(2) An offense that would prevent the issuance or renewal of a merchant mariner's license, certificate of registry, or document; or

(3) An offense described in subparagraph 205(a)(3)(A) or (B) of the National Driver Register Act of 1982 (23 U.S.C.S. 401, note).

(d) If the respondent participates in the scheme of a State for the expungement of convictions, and if he or she pleads *guilty* or *no contest* or, by order of the trial court, has to attend classes, contribute time or money, receive treatment, submit to any manner

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of probation or supervision, or forgo appeal of the finding of the trial court, the Coast Guard regards him or her, for the purposes of 46 U.S.C. 7703 or 7704, as having received a conviction. The Coast Guard does not consider the conviction expunged without proof that the expungement is due to the conviction's having been in error.

(e) No respondent may challenge the jurisdiction of a Federal or State court in any proceeding under 46 U.S.C. 7703 or 7704.

### **§ 20.1309 Admissibility of respondents' criminal records and records with the Coast Guard before entry of findings and conclusions.**

(a) The prior disciplinary record of the respondent is admissible when offered by him or her.

(b) The prior disciplinary record of the respondent is admissible when offered by the Coast Guard representative to impeach the credibility of evidence offered by the respondent.

(c) The use of a judgment of conviction is permissible on the terms prescribed by § 20.1307.

### **§ 20.1311 Admissions by respondent.**

No person may testify regarding admissions made by the respondent during an investigation under 46 CFR part 4, except to impeach the credibility of evidence offered by the respondent.

### **§ 20.1313 Medical examination of respondents.**

In any proceeding in which the physical or mental condition of the respondent is relevant, the ALJ may order him or her to undergo a medical examination. Any examination ordered by the ALJ is conducted, at Federal expense, by a physician designated by the ALJ. If the respondent fails or refuses to undergo any such examination, the failure or refusal receives due weight and may be sufficient for the ALJ to infer that the results would have been adverse to the respondent.

### **§ 20.1315 Submission of prior records and evidence in aggravation or mitigation.**

(a) The prior disciplinary record of the respondent comprises the following items less than 10 years old:

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(1) Any written warning issued by the Coast Guard and not contested by the respondent.

(2) Final agency action by the Coast Guard on any S&R proceeding in which a sanction or consent order was entered.

(3) Any agreement for voluntary surrender entered into by the respondent.

(4) Any final judgment of conviction in Federal or State courts.

(5) Final agency action by the Coast Guard resulting in the imposition against the respondent of any civil penalty or warning in a proceeding administered by the Coast Guard under this title.

(6) Any official commendatory information concerning the respondent of which the Coast Guard representative is aware. The Coast Guard representative may offer evidence and argument in aggravation of any charge proved. The respondent may offer evidence of, and argument on, prior maritime service, including both the record introduced by the Coast Guard representative and any commendatory evidence.

(b) The respondent may offer evidence and argument in mitigation of any charge proved.

(c) The Coast Guard representative may offer evidence and argument in rebuttal of any evidence and argument offered by the respondent in mitigation.

## **PART 23—DISTINCTIVE MARKINGS FOR COAST GUARD VESSELS AND AIRCRAFT**

Sec.

23.01 Basis and purpose.

23.05 Where and when displayed.

23.10 Coast Guard emblem.

23.12 Coast Guard identifying insignia.

23.15 Coast Guard ensign.

23.20 Coast Guard commission pennant.

23.30 Penalty.

AUTHORITY: Secs. 638, 639, 63 Stat. 546; 14 U.S.C. 638, 639, E.O. 10707, 3 CFR, 1954-1958 Comp., p. 364.

### **§ 23.01 Basis and purpose.**

(a) This subpart establishes instructions for the display of distinctive markings of Coast Guard vessels and aircraft, including Coast Guard ensign